

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND  
GEOLOGISTS**

**FINAL STATEMENT OF REASONS**

**Hearing Date:** No hearing was scheduled nor was one requested.

**Subject Matter of Proposed Regulations:** Fingerprinting

**Section(s) Affected:** California Code of Regulations, Title 16, Sections 420.1 and 3021.1

**Updated Information:**

On October 26, 2012, the Board for Professional Engineers, Land Surveyors, and Geologists (Board) issued a 45-day Notice of Public Comment Period related to applicant fingerprint requirements based on Senate Bill (SB) 543 (Steinberg & Price, Chapter 448, Statutes of 2011) that amended Business and Professions Code section 144 requiring the Board to verify all applicants' fingerprints for criminal history prior to approval. The Board received one comment during the 45-day comment period that ended December 11, 2012.

As a result of the comment, the Board issued a 15-day Comment Period on July 9, 2013 that introduced the Notice of Availability of Modified Text and Document Added to the Rulemaking File. The Notice proposed changes to the regulatory language. The comment period ended July 24, 2013. The Board received no additional comments during the 15-day comment period.

The Board re-evaluated the proposed regulatory language and made changes to 16 CCR Sections 420.1 and 3021.1 in order to clarify who must participate in the fingerprint requirement and make the proposed language consistent with statute, specifically Business and Professions Code section 144(c). Current language is vague when defining an applicant and modified text makes specific statutory requirements.

The fundamental benefit behind this request is protection of the public. Protecting consumers aligns with the Board's Mission "to protect the health, safety, and welfare of the public." Also, the Board's Vision states "The Board will lead the nation in ensuring that consumers can make informed decisions and have a high degree of confidence in, and access to, competent and ethical professional services provided by our licensees." By requesting fingerprints to allow criminal history record checks, the proposed regulation would guarantee that the Board will do all that is necessary to regulate its licensed professions.

In addition, a grammatical change has been made to update the Notice. On the second page within the first paragraph it is written "as a condition of processing and application

with the Board”. It shall now read “as a condition of processing an application with the Board.”

**Local Mandate:**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact:**

This action will not have a significant adverse economic impact on small businesses.

**Consideration of Alternatives:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**Summary of Comments Received during the Comment Period:**

**Original 45-Day Comment Period:**

The Board received one written comment during the initial 45-day comment period, which ran from October 26, 2012, through December 11, 2012.

**COMMENT:** A comment was received from a licensee suggesting that the proposed regulation is unclear regarding the requirements for fingerprinting of initial applicants versus renewal applicants. The licensee suggested that clarifying regulatory language to exclude “applicants seeking to renew a valid or expired license” would guarantee the intent of the regulation change.

**COMMENT IS ACCEPTED:** The proposed language is not consistent with the statute (Business & Professions Code section 144, specifically subdivision (c)). The statute is clear that the requirements apply only to new applications, not renewals. It is the intent of the Board to only require fingerprints from initial applicants, and this regulation is the vehicle for that request. The Board is modifying language to clarify the term “applicant” and who shall be required to submit fingerprints.

**Modified 15-Day Re-Notice:**

The Board received no comments during the 15-day comment period for the Re-Notice.